

**Internal Audit Review of the Use of Statistics and Protection of Taxpayer Rights
in the Arkansas-Oklahoma District Collection Function**

Summary of Findings

An Internal Audit was conducted at the request of the Acting Commissioner and Regional Commissioner, Midstates Region. It was begun Oct. 1, 1997, and was delivered to the Senate Finance Committee on Dec. 5, 1997. The report evaluates two aspects of the Collection field function in the Arkansas-Oklahoma District -- whether management's use of enforcement statistics was appropriate and whether the use of statistics led to the abuse of taxpayers' rights.

The IRS's Chief Inspector has also initiated a Nationally Coordinated Audit to evaluate the use of statistics in the Collection activity nationwide. This audit will cover twelve districts, including Arkansas-Oklahoma, and will be completed by the end of December. A second audit is underway focusing on Collection management practices and the use of enforcement tools, which is scheduled to be completed by the end of February 1998, with a report issued by the end of March 1998. This audit will cover multiple districts, including Arkansas-Oklahoma.

The current report on the Arkansas-Oklahoma District finds that the IRS's overall focus on measuring performance via productivity goals is unbalanced. It cites a "climate" that may have set the stage for miscommunication about performance measures to employees and managers at all levels of the organization. The report says this overemphasis on productivity could affect taxpayers' right to fair treatment, as well as employees' access to a fair evaluation system.

According to the report, the Arkansas-Oklahoma District Collection function is operating within this Servicewide climate. The District's goals and performance expectations are focused heavily on specific statistical targets. Further, senior management and executives are evaluated almost solely on productivity goals in the area of increasing voluntary compliance.

In the Arkansas-Oklahoma District, one third of the 90 Revenue Officers interviewed for this report said they felt pressure to increase the use of enforcement tools, especially the authority to seize assets. The report found few verifiable case

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examples to support this perception but claims that the results nevertheless reflect a state of mind. The report found no references to tax enforcement results in Revenue Officer evaluations. However, references to enforcement statistics did appear in some evaluations of Revenue Officers' supervisors. Collection groups were expected to set their own goals, and some did, which the report says could be construed as a violation of the Taxpayer Bill of Rights.

In the area of the use of seizures in the District, the report cites a "strong enforcement mindset" and the perceived pressure to seize property, which may have led some Revenue Officers to take questionable actions. Of the 67 seizure cases that were reviewed, 23 did not meet the IRS's procedural requirements and/or could be viewed as inappropriate treatment of taxpayers.

Finally, the report says that while the Arkansas-Oklahoma District conducted more seizures per Revenue Officer in 1997 than the national average, this represented just over 3% of total taxpayers in collection stream. Further, it notes that over 90% of taxpayers in the sample had a history of delinquency in filing and/or paying either individual, business or employment taxes. The report also acknowledges that seizure is sometimes the only viable course of action to resolve egregious delinquencies.

How the IRS Is Responding to the Findings

The Collection function within the IRS has already taken a number of steps to address both the issues raised in the Senate Finance Committee hearings in September and the findings of this report.

To date, the IRS has already:

- Stopped the practice of ranking 33 districts on results.
- Suspended the distribution of goals relating to revenue production to field offices.
- Required the Collection Division Chief's approval of all proposed seizures (effective November 24).
- Required the District Director's approval of seizures of a residence, its contents, or perishable goods (also effective November 24).

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- Directed each District and Service Center Director to review all complaint correspondence received after July 1, 1997, and to confirm to the Taxpayer Advocate that all cases have been resolved properly, with no outstanding issues (effective mid-December).

Specifically, the Arkansas-Oklahoma District has already:

- Halted all seizure actions (on September 24) until district management met with all Compliance employees to enable the correction of any miscommunication regarding the responsibilities of Compliance employees in dealings with taxpayers.
- Temporarily required that all levy actions receive management approval, which will also allow an opportunity to correct any miscommunication (also on September 24).
- Held a series of 15 town meetings with District management and the Taxpayer Advocate to emphasize the correct application of the law to facts of a specific case and the importance of considering all factors before taking enforcement action because of the impact of such action on taxpayers' lives. After each meeting concluded, the Director lifted seizure and levy action "stand down" for employees in attendance.

The report indicates that the Collection function operated in an environment lacking the appropriate emphasis on quality and customer service issues. In addition, misunderstanding and the inappropriate use of statistics and measures may have caused some employees to make sometimes serious mistakes of judgment.

It is important to realize that the report is not an indictment of the use of measures and statistics in evaluating program performance. Instead, it found that existing Servicewide measures, as applied in the District, were inappropriately skewed toward compliance at the expense of quality and customer service, thereby risking the protection of taxpayer rights. The IRS is taking the necessary steps to review and revise Servicewide measures so they properly take into account these very important aspects of the IRS mission.

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Next Steps

The Internal Audit report raises a number of important issues in connection with Collection activity in the District that have larger implications and should be addressed on a Servicewide basis. The IRS had decided to take a number of interim steps to change current procedures based on the report's findings.

Determination of Hardship -- If a taxpayer is advised that their property is going to be seized and tells a Revenue Officer that such an action will cause hardship, the Revenue Officer will be required to refer the case to the local Taxpayer Advocate for a consideration of the existence of a hardship.

Publication 594 -- The IRS is in the process of completely revising and clarifying Publication 594, Understanding the Collection Process, to make it more useful to taxpayers in dealing with IRS Collection personnel. This publication is included in all Notices of Intent to Levy mailed to taxpayers. The revised publication will include a detachable Form 911, Application for Taxpayer Assistance Order, which a taxpayer can use to request a Taxpayer Assistance Order from the local Taxpayer Advocate. The Taxpayer Advocate may determine that the collection action would cause a significant hardship for the taxpayer and may order the action stopped. Including Form 911 in the Notice of Intent to Levy will ensure that taxpayers are able to exercise their right to request assistance from the Taxpayer Advocate.

Seizure of Principal Residence -- Current procedures require that the District Director approve seizures of a taxpayer's principal residence. New procedures will require District Director approval of all seizures of residential property used by any individual, including a third party, as a principal residence. This would include rental property owned by the taxpayer and rented by another person as a principal residence.

Substitute for Return -- If a taxpayer fails to file an individual income tax return after repeated contacts by the IRS, the IRS may prepare a return for the taxpayer using information such as Form W-2 and 1099. If a Revenue Officer is assigned a case where the tax was assessed using this substitute for return procedure, upon contact with the taxpayer, the Revenue Officer must now explain to the taxpayer how the tax was computed and fully advise the taxpayer of the opportunity to correct the return with any appropriate expenses or deductions or other information to support a decrease in the assessed tax. The taxpayer must be given reasonable time to provide this information before collection actions can begin.

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Seizure of Perishable Goods -- The determination of seized property as perishable goods is made by the Revenue Officer handling the case. As a result of a recent decision by the IRS, all perishable goods seizures must be approved by the District Director. In addition, District Directors must now approve the Revenue Officer's determination of perishable goods in addition to the ultimate seizure and sale.

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